

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

HYUNHUY NAM,

Plaintiff,

v.

PERMANENT MISSION OF THE  
REPUBLIC OF KOREA TO THE UNITED  
NATIONS; HYUN CHO; JINHO JO; and  
DAEYONG CHUNG,

Defendants.

Case No.: 1:21-cv-06165-AJN

**CIVIL ACTION**

**ANSWER**

Defendant Permanent Mission of the Republic of Korea to the United Nations (“Mission”), by and through its attorneys, Kim, Cho & Lim, LLC, upon personal knowledge as to itself and upon information and belief as to other matters, answers the Complaint and allege as follows:

**PRELIMINARY STATEMENT**

1. Defendant admits only that Plaintiff purports to bring this action for certain alleged employment practices under the limitations and purported exceptions under the Foreign Sovereign Immunities Act (“FSIA”). Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 1.

2. Defendant admits only that Plaintiff purports to bring this action for certain categories of damages under the Fair Labor Standards Act (“FLSA”), the New York Labor Law (“NYLL”), the New York State Human Rights Law (“NYSHRL”) and the New York City Human Rights Law (“NYCHRL”). Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 2.

**THE PARTIES**

3. Defendant admits only that Plaintiff was a citizen of the Republic of Korea during his alleged employment with Defendant. Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 3.

4. Defendant admits the allegations set forth in the Complaint, ¶ 4.

5. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant admits the allegations set forth in the Complaint, ¶ 5.

6. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant admits the allegations set forth in the Complaint, ¶ 6.

7. Defendant admits only that it is an organ of a foreign state or a subdivision thereof. Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 7.

8. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant admits the allegations set forth in the Complaint, ¶ 8.

9. Defendant admits only that the individual Hyun Cho is a citizen of the Republic of Korea and currently the Ambassador at the Mission. Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 9.

10. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 10.

11. Defendant denies the allegations set forth in the Complaint, ¶ 11.

12. Defendant admits only that the individual Jinho Jo is a citizen of the Republic of Korea and currently a Counselor at the Mission. Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 12.

13. Defendant denies the allegations set forth in the Complaint, ¶ 13.

14. Defendant admits only that the individual Daeyong Chung is a citizen of the Republic of Korea and currently a Minister at the Mission. Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 14.

15. Defendant denies the allegations set forth in the Complaint, ¶ 15.

#### **JURISDICTION AND VENUE**

16. Defendant repeats and re-alleges each and every response to paragraphs 1 through 15 of the Complaint as if set forth fully herein verbatim.

17. Defendant admits only that Plaintiff purports to bring this action under the FSIA and the FLSA. Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 17.

18. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 18.

19. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 19.

20. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 20.

21. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 21.

22. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 22.

23. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 23.

24. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 24.

25. Defendant denies the allegations set forth in the Complaint, ¶ 25.

26. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 26.

27. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 27.

28. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 28.

29. Defendant denies the allegations set forth in the Complaint, ¶ 29.

**Defendant's Commercial Activity**

30. Defendant denies the allegations set forth in the Complaint, ¶ 30.
31. Defendant admits the allegations set forth in the Complaint, ¶ 31.
32. Defendant denies the allegations set forth in the Complaint, ¶ 32.
33. Defendant admits the allegations set forth in the Complaint, ¶ 33.
34. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 34.
35. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 35 and, as such, denies them.
36. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 34.
37. Defendant denies the allegations set forth in the Complaint, ¶ 37.
38. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 38.
39. Defendant denies the allegations set forth in the Complaint, ¶ 39.
40. Defendant denies the allegations set forth in the Complaint, ¶ 40.
41. Defendant denies the allegations set forth in the Complaint, ¶ 41.
42. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 42 and, as such, denies them.
43. Defendant denies the allegations set forth in the Complaint, ¶ 43.

44. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 44 and, as such, denies them.

45. Defendant admits the allegations set forth in the Complaint, ¶ 45.

46. Defendant admits the allegations set forth in the Complaint, ¶ 46.

47. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 47 and, as such, denies them.

48. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 48 and, as such, denies them.

49. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 49 and, as such, denies them.

50. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 50 and, as such, denies them.

51. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 51 and, as such, denies them.

52. Defendant denies the allegations set forth in the Complaint, ¶ 52.

53. Defendant denies the allegations set forth in the Complaint, ¶ 53.

54. Defendant admits the allegations set forth in the Complaint, ¶ 54.

55. Defendant admits the allegations set forth in the Complaint, ¶ 55.

56. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 56 and, as such, denies them.

57. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 57 and, as such, denies them.

58. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 58 and, as such, denies them.

59. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 59 and, as such, denies them.

60. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 60 and, as such, denies them.

61. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 61 and, as such, denies them.

62. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 62 and, as such, denies them.

63. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 63 and, as such, denies them.

64. Defendant denies the allegations set forth in the Complaint, ¶ 64.

65. Defendant denies the allegations set forth in the Complaint, ¶ 65.

66. Defendant admits the allegations set forth in the Complaint, ¶ 66.

#### **Plaintiff's Work Schedule and Pay**

67. Defendant denies the allegations set forth in the Complaint, ¶ 67.

68. Defendant denies the allegations set forth in the Complaint, ¶ 68.

69. Defendant denies the allegations set forth in the Complaint, ¶ 69.

70. Defendant denies the allegations set forth in the Complaint, ¶ 70.

71. Defendant denies the allegations set forth in the Complaint, ¶ 71.

72. Defendant denies the allegations set forth in the Complaint, ¶ 72.

73. Defendant denies the allegations set forth in the Complaint, ¶ 73.

74. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 74.

75. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 75.

76. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 76.

77. Defendant denies the allegations set forth in the Complaint, ¶ 77.

78. Defendant denies the allegations set forth in the Complaint, ¶ 78.

79. Defendant denies the allegations set forth in the Complaint, ¶ 79.

80. Defendant denies the allegations set forth in the Complaint, ¶ 80.

81. Defendant denies the allegations set forth in the Complaint, ¶ 81.

82. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 82.

83. Defendant denies the allegations set forth in the Complaint, ¶ 83.

84. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 84.

85. Defendant admits the allegations set forth in the Complaint, ¶ 85.

86. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 86.

87. Defendant denies the allegations set forth in the Complaint, ¶ 87.

**Age Discrimination and Hostile Environment**

88. Defendant admits the allegations set forth in the Complaint, ¶ 88.

89. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 89 and, as such, denies them.

90. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 90 and, as such, denies them.

91. Defendant denies the allegations set forth in the Complaint, ¶ 91.

92. Defendant denies the allegations set forth in the Complaint, ¶ 92.

93. Defendant denies the allegations set forth in the Complaint, ¶ 93.

94. Defendant denies the allegations set forth in the Complaint, ¶ 94.

95. Defendant denies the allegations set forth in the Complaint, ¶ 95.

96. Defendant denies the allegations set forth in the Complaint, ¶ 96.

97. Defendant denies the allegations set forth in the Complaint, ¶ 97.

98. Defendant denies the allegations set forth in the Complaint, ¶ 98.

99. Defendant denies the allegations set forth in the Complaint, ¶ 99.

100. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 100 and, as such, denies them.

**Commercial Activity Exception Under 28 U.S.C. § 1605**

101. Defendant repeats and re-alleges each and every response to paragraphs 1 through 100 as if set forth fully herein verbatim.

102. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 102.

**STATEMENT OF CLAIM**

**COUNT I**  
**[The Fair Labor Standard Act – Unpaid Overtime]**

103. Defendant repeats and re-alleges each and every response to paragraphs 1 through 102 as if set forth fully herein verbatim.

104. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 104.

105. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 105.

106. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 106.

107. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 107.

108. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 108.

**COUNT II**  
**[The New York Labor Law – Unpaid Promised Wage]**

109. Defendant repeats and re-alleges each and every response to paragraphs 1 through 108 as if set forth fully herein verbatim.

110. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 110.

111. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 111.

112. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 112.

113. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 113.

**COUNT III**  
**[New York Labor Law – Unpaid Overtime]**

114. Defendant repeats and re-alleges each and every response to paragraphs 1 through 113 as if set forth fully herein verbatim.

115. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 115.

116. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 116.

117. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 117.

118. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 118.

**COUNT IV**  
**[New York Labor Law – Spread of Hours]**

119. Defendant repeats and re-alleges each and every response to paragraphs 1 through 118 as if set forth fully herein verbatim.

120. Defendant denies the allegations set forth in the Complaint, ¶ 120.

121. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 121.

122. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 122.

123. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 123.

**COUNT V**

**[New York Labor Law – Wage Notice and Wage Statement Violations]**

124. Defendant repeats and re-alleges each and every response to paragraphs 1 through 123 as if set forth fully herein verbatim.

125. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 125.

126. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 126.

127. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 127.

128. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 128.

129. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 129.

**COUNT VI**

**[Violation of the New York State Human Rights Law – Age Discrimination]**

130. Defendant repeats and re-alleges each and every response to paragraphs 1 through 129 as if set forth fully herein verbatim.

131. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 131.

132. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 132.

133. Defendant admits the allegations set forth in the Complaint, ¶ 133.

134. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 134.

135. Defendant denies the allegations set forth in the Complaint, ¶ 135.

136. The allegations contained in this paragraph are identical to those contained in paragraph 89 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

137. The allegations contained in this paragraph are identical to those contained in paragraph 90 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

138. The allegations contained in this paragraph are identical to those contained in paragraph 91 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

139. Defendant denies the allegations set forth in the Complaint, ¶ 139.

140. The allegations contained in this paragraph are identical to those contained in paragraph 94 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

141. The allegations contained in this paragraph are identical to those contained in paragraph 95 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

142. The allegations contained in this paragraph are identical to those contained in paragraph 96 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

143. The allegations contained in this paragraph are identical to those contained in paragraph 97 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

144. The allegations contained in this paragraph are identical to those contained in paragraph 98 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

145. The allegations contained in this paragraph are identical to those contained in paragraph 99 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

146. The allegations contained in this paragraph are identical to those contained in paragraph 100 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

147. Defendant denies the allegations set forth in the Complaint, ¶ 147.

148. Defendant denies knowledge and information sufficient to form a basis as to the truth of the matter alleged in the Complaint, ¶ 148 and, as such, denies them.

149. Defendant denies the allegations set forth in the Complaint, ¶ 149.

150. Defendant denies the allegations set forth in the Complaint, ¶ 150.

151. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 151.

152. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 152.

153. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 153.

154. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 154.

155. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 155.

156. Defendant denies the allegations set forth in the Complaint, ¶ 156.

157. Defendant admits only that Plaintiff seeks certain remedies. Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 157.

**COUNT VII**

**[Violation of the New York State Human Rights Law – Hostile Work Environment]**

158. Defendant repeats and re-alleges each and every response to paragraphs 1 through 157 as if set forth fully herein verbatim.

159. The allegations contained in this paragraph are identical to those contained in paragraph 132 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

160. The allegations contained in this paragraph are identical to those contained in paragraph 133 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

161. The allegations contained in this paragraph are identical to those contained in paragraph 134 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

162. The allegations contained in this paragraph are identical to those contained in paragraph 135 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

163. The allegations contained in this paragraph are identical to those contained in paragraph 136 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

164. The allegations contained in this paragraph are identical to those contained in paragraph 137 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

165. The allegations contained in this paragraph are identical to those contained in paragraph 138 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

166. The allegations contained in this paragraph are identical to those contained in paragraph 139 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

167. The allegations contained in this paragraph are identical to those contained in paragraph 140 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

168. The allegations contained in this paragraph are identical to those contained in paragraph 141 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

169. The allegations contained in this paragraph are identical to those contained in paragraph 142 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

170. The allegations contained in this paragraph are identical to those contained in paragraph 143 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

171. The allegations contained in this paragraph are identical to those contained in paragraph 144 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

172. The allegations contained in this paragraph are identical to those contained in paragraph 145 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

173. The allegations contained in this paragraph are identical to those contained in paragraph 146 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

174. The allegations contained in this paragraph are identical to those contained in paragraph 147 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

175. The allegations contained in this paragraph are identical to those contained in paragraph 148 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

176. The allegations contained in this paragraph are identical to those contained in paragraph 148 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

177. Defendant denies the allegations set forth in the Complaint, ¶ 177.

178. Defendant denies the allegations set forth in the Complaint, ¶ 178.

179. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 179.

180. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 180.

181. Defendant denies the allegations set forth in the Complaint, ¶ 181.
182. Defendant denies the allegations set forth in the Complaint, ¶ 182.
183. Defendant denies the allegations set forth in the Complaint, ¶ 183.
184. Defendant admits only that Plaintiff seeks certain remedies. Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 184.

**COUNT VIII**

**[Violation of the New York City Human Rights Law – Age Discrimination]**

185. Defendant repeats and re-alleges each and every response to paragraphs 1 through 184 as if set forth fully herein verbatim.
186. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 186.

187. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 187.

188. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 188.

189. The allegations contained in this paragraph are identical to those contained in paragraph 160 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

190. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 198.

191. The allegations contained in this paragraph are identical to those contained in paragraph 189 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

192. The allegations contained in this paragraph are identical to those contained in paragraph 161 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

193. The allegations contained in this paragraph are identical to those contained in paragraph 162 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

194. The allegations contained in this paragraph are identical to those contained in paragraph 163 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

195. The allegations contained in this paragraph are identical to those contained in paragraph 164 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

196. The allegations contained in this paragraph are identical to those contained in paragraph 165 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

197. The allegations contained in this paragraph are identical to those contained in paragraph 166 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

198. The allegations contained in this paragraph are identical to those contained in paragraph 167 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

199. The allegations contained in this paragraph are identical to those contained in paragraph 168 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

200. The allegations contained in this paragraph are identical to those contained in paragraph 169 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

201. The allegations contained in this paragraph are identical to those contained in paragraph 170 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

202. The allegations contained in this paragraph are identical to those contained in paragraph 171 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

203. The allegations contained in this paragraph are identical to those contained in paragraph 172 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

204. The allegations contained in this paragraph are identical to those contained in paragraph 173 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

205. The allegations contained in this paragraph are identical to those contained in paragraph 174 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

206. The allegations contained in this paragraph are identical to those contained in paragraph 175 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

207. The allegations contained in this paragraph are identical to those contained in paragraph 149 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

208. The allegations contained in this paragraph are identical to those contained in paragraph 150 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

209. The allegations contained in this paragraph are identical to those contained in paragraph 151 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

210. The allegations contained in this paragraph are identical to those contained in paragraph 152 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

211. Defendant denies the allegations set forth in the Complaint, ¶ 211.

212. Defendant denies the allegations set forth in the Complaint, ¶ 212.

213. Defendant denies the allegations set forth in the Complaint, ¶ 213.

214. Defendant admits only that Plaintiff seeks certain remedies. Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 214.

**COUNT IX**

**[Violation of the New York City Human Rights Law – Hostile Work Environment]**

215. Defendant repeats and re-alleges each and every response to paragraphs 1 through 214 as if set forth fully herein verbatim.

216. The allegations set forth in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in the Complaint, ¶ 216.

217. The allegations contained in this paragraph are identical to those contained in paragraph 191 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

218. The allegations contained in this paragraph are identical to those contained in paragraph 190 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

219. The allegations contained in this paragraph are identical to those contained in paragraph 217 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

220. The allegations contained in this paragraph are identical to those contained in paragraph 192 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

221. The allegations contained in this paragraph are identical to those contained in paragraph 193 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

222. The allegations contained in this paragraph are identical to those contained in paragraph 194 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

223. The allegations contained in this paragraph are identical to those contained in paragraph 195 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

224. The allegations contained in this paragraph are identical to those contained in paragraph 196 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

225. The allegations contained in this paragraph are identical to those contained in paragraph 197 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

226. The allegations contained in this paragraph are identical to those contained in paragraph 198 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

227. The allegations contained in this paragraph are identical to those contained in paragraph 199 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

228. The allegations contained in this paragraph are identical to those contained in paragraph 200 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

229. The allegations contained in this paragraph are identical to those contained in paragraph 201 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

230. The allegations contained in this paragraph are identical to those contained in paragraph 202 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

231. The allegations contained in this paragraph are identical to those contained in paragraph 203 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

232. The allegations contained in this paragraph are identical to those contained in paragraph 204 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

233. The allegations contained in this paragraph are identical to those contained in paragraph 205 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

234. The allegations contained in this paragraph are identical to those contained in paragraph 206 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

235. The allegations contained in this paragraph are identical to those contained in paragraph 177 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

236. The allegations contained in this paragraph are identical to those contained in paragraph 178 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

237. The allegations contained in this paragraph are identical to those contained in paragraph 179 of the Complaint. As such, Plaintiff is referred to Defendant's response to that paragraph.

238. Defendant denies the allegations set forth in the Complaint, ¶ 238.

239. Defendant denies the allegations set forth in the Complaint, ¶ 239.

240. Defendant denies the allegations set forth in the Complaint, ¶ 240.

241. Defendant denies the allegations set forth in the Complaint, ¶ 241.

242. Defendant admits only that Plaintiff seeks certain remedies. Except as expressly admitted, Defendant denies the allegations set forth in the Complaint, ¶ 242.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

The First Amended Complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

Defendant is entitled to the full extent of immunity granted under the Foreign Sovereign Immunities Act, 28 U.S.C. § 1602, *et seq.*, without applicability of any exceptions or waivers contained therein.

**THIRD AFFIRMATIVE DEFENSE**

The Court lacks personal jurisdiction over Defendant by the application of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1602, *et seq.*

#### **FOURTH AFFIRMATIVE DEFENSE**

The Court lacks subject matter jurisdiction over Defendant by the application of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1602, *et seq.*

#### **FIFTH AFFIRMATIVE DEFENSE**

The commercial activities exception under 28 U.S.C. § 1605 does not apply to the facts and circumstances presented in this action, namely the alleged employment relationship between Plaintiff and Defendant.

#### **SIXTH AFFIRMATIVE DEFENSE**

Plaintiff released his claims relating to the termination of his employment with Defendant by duly entering into a settlement agreement setting forth the terms of such release.

#### **SEVENTH AFFIRMATIVE DEFENSE**

Defendant is not liable under any provisions of the New York Labor Law § 198 because it is not an employer as defined in NYLL § 190(3) (The term “employer” shall not include a governmental agency).

#### **EIGHTH AFFIRMATIVE DEFENSE**

Defendant is not liable under any provisions of the New York Labor Law § 198 because it has made complete and timely payment of all wages and/or because it reasonably believed in good faith that it was not required to provide Plaintiff with the notice pursuant to § 195.

#### **NINTH AFFIRMATIVE DEFENSE**

There is no ascertainable damage, harm, and/or loss sustained by Plaintiff due to any act and/or omission of Defendant.

#### **TENTH AFFIRMATIVE DEFENSE**

Plaintiff lacks evidentiary support of the allegations asserted against Defendant.

#### **ELEVENTH AFFIRMATIVE DEFENSE**

Defendant has acted in good faith and reasonably believed that it is not violating the laws under which Plaintiff brings this action or that those laws are not applicable to Defendant.

#### **TWELFTH AFFIRMATIVE DEFENSE**

The activities on which Plaintiff bases his claim herein for overtime compensation consisted of traveling to and from the actual place of performance of, and of activities preliminary and postliminary to the principal activities of Plaintiff's employment. Thus, such activities were not compensable by either an express provision of any written or non-written contract, or by any custom or practice in effect at the time of such activities; or, if compensable by such contract, custom, or practice, such activities were not engaged in by Plaintiff during the portion of the day with respect to which they were so made compensable. Accordingly, if any employment-related

laws of the United States are applicable to Defendant, Defendant is relieved of any liability for the overtime compensation claimed by Plaintiff under the Portal-to-Portal Act, 29 U.S.C.A. § 254.

#### **THIRTEENTH AFFIRMATIVE DEFENSE**

If it is determined that Plaintiff is entitled to any relief for overtime compensation pursuant to the Fair Labor Standards Act, the New York Labor Law, and their supporting regulations, or any other applicable law, Defendant contends that Plaintiff is limited to payment for overtime hours at the rate agreed upon pursuant to their contract or one and one-half times Plaintiff's regular hourly rate, whichever is lower.

#### **FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiff was properly compensated for his work, including for overtime, at the rate agreed upon between the parties. Defendant has at all times maintained and provided accurate records relating to Plaintiff's employment with Defendant, if any.

#### **FIFTEENTH AFFIRMATIVE DEFENSE**

Defendant has a legitimate and non-discriminatory grounds upon which it instituted any acts which Plaintiff alleges was based on discriminatory grounds.

#### **SIXTEENTH AFFIRMATIVE DEFENSE**

Plaintiff was paid above the minimum wage and, as such, is not entitled to any spread-of-hours premium under 12 NYCRR § 142-3.4. Williams v. Tri-State Biodiesel, L.L.C., 13-cv-5041, 2015 U.S. Dist. LEXIS 7926, 2015 WL 305362 (S.D.N.Y. Jan. 23, 2015) ("recent case law has been nearly unanimous that the spread-of-hours requirement extends only to workers paid at the minimum wage level") (collecting cases).

#### **SEVENTEENTH AFFIRMATIVE DEFENSE**

Defendant is exempt from the payment of payroll taxes pursuant to the Foreign Missions Act, 22 U.S.C. § 4301.

#### **RESERVATION AND NON-WAIVER**

Defendant reserves and does not waive any additional defenses as may be revealed by information subsequently acquired in discovery or otherwise.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Defendant demands judgment against Plaintiff:

- a. Dismissing the Complaint in its entirety and with prejudice against Defendant;
- b. Awarding Defendant the costs and disbursements of this action; and

c. Granting Defendant such other and further relief as the Court deems just and equitable.

Kim, Cho & Lim, LLC  
*Attorneys for Defendant*

Dated: February 11, 2022

By: /s/ Joshua S. Lim  
Joshua S. Lim, Esq.

**DESIGNATION OF TRIAL COUNSEL**

Joshua S. Lim, Esq., is hereby designated as trial counsel for Defendant.

Kim, Cho & Lim, LLC  
*Attorneys for Defendant*

Dated: February 11, 2022

By: /s/ Joshua S. Lim  
Joshua S. Lim, Esq.

**JURY DEMAND**

Defendant hereby demands a Trial by jury as to all issues so triable.

Kim, Cho & Lim, LLC  
*Attorneys for Defendant*

Dated: February 11, 2022

By: /s/ Joshua S. Lim  
Joshua S. Lim, Esq.